



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/779,363	02/13/2004	Dave Procknow	018367-9805-00	7900

23409 7590 01/22/2007
MICHAEL BEST & FRIEDRICH, LLP
100 E WISCONSIN AVENUE
MILWAUKEE, WI 53202

EXAMINER

HOOK, JAMES F

ART UNIT	PAPER NUMBER
----------	--------------

3754

MAIL DATE	DELIVERY MODE
-----------	---------------

01/22/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

W

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/779,363	Applicant(s) PROCKNOW ET AL.	
	Examiner James F. Hook	Art Unit 3754	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 18 February 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

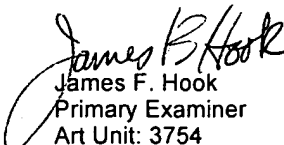
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: _____.
- Claim(s) objected to: _____.
- Claim(s) rejected: _____.
- Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.


 James F. Hook
 Primary Examiner
 Art Unit: 3754

Continuation of 11. does NOT place the application in condition for allowance because: With respect to the language of claim 1, it is noted that the claims do not recite the sharp corner is adjacent the interior but rather that the first bend is adjacent the inner surface, therefore this argument is more detailed than the claim language. The claim language also sets forth a "substantially sharp corner" which is not further defined in the specification, therefore a substantially sharp corner does not necessarily define the same limitation of a sharp corner as defined in the dictionary reference cited, and as applicant notes the flange corner of Cousimano can be considered a sharp corner and such is adjacent to the interior wall when one side of the wall making the shaper corner is interior of the pipe so such is adjacent thereto. With respect to any argument set forth with respect to the dictionary definition, such is only the definition of sharp and not "sharp corner", and in addition the term "substantially" allows for corners not sharp as well, where a 90 degree bend is considered to form a corner when sharpness is only based upon the term substantially, and as mentioned above the bend of the wall forming the flange is a sharp corner. The insert is inside of the flanged area and is part of the bend surface inside of the pipe as well so with it's surface existing in the bend opposite the outer bend portion at some part of the bend such is opposite to the outer bend to allow all the flow there through. With respect to Reed, the language says all flow through area, not through the pipe so such would allow for not all of the pipe flow to pass between elements, however, outer edge 7 is recited in the specification of Reed to be rigidly attached to the ring which inherently would not allow flow between the ring and the blade 7, and there is no flow between the ring and the pipe wall either therefore inherently all the flow would be between the inside blade 7 as defined in the rejection, and the outside wall of the bend, where Reed clearly shows a sharp corner on the inside of the 90 degree bend in the pipe, therefore such meets the sharp corner recitation in the claim. The blade 7 and ring 6 are both curved and adjacent the sharp corner, and the blade edge where it attaches to the ring is not centered as applicant argues, therefore the flow would pass by the blade 7 and inside of the outer bend as recited. With respect to any argument toward the combination of Reed and Cousimano such is not a persuasive argument when these references have not been combined to meet the claim language, but rather individually each is considered obvious alone in view of choice of mechanical expedients as set forth in the rejection, not the combination of the two. In general, many of the arguments are more detailed than the current claim language and are not considered persuasive.